United States Court of Appeals

for the Second Circuit

APPENDIX

77-1208

B

P/S

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

Docket No. 77-1208

UNITED STATES OF AMERICA,

Appellee,

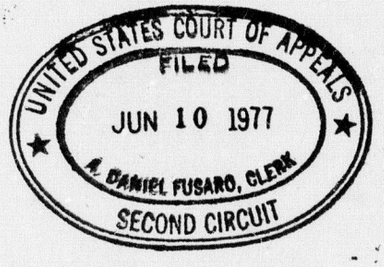
-against-

SANDY CHECK,

Defendant-Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

APPELLANT'S APPENDIX FOR SANDY CHECK



IVAN S. FISHER
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Sandy Check
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New York, New York 10022
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BARRY A. BOHRER
Of Counsel

PAGINATION AS IN ORIGINAL COPY

INDEX TO APPENDIX

	Page
Indictment	A-1
Docket Entries	A-7
Judgment	A-9
Notice of Appeal	A-11
Transcript of Conversation between William Cali and... Sandy Check (October 21, 1975)	A-13
Transcript of Conversation between William Cali and... Philip Marasco (October 23, 1975)	A-22
Transcript of Conversation between Undercover Detect.. ive Stephen Spinelli (Danny Gennaro) and Sandy Check.. (August 5, 1976)	A-32

A-1

PS:isk
76-3584

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA :

-v- :

SANDY CHECK and
PHILIP MARASCO
a/k/a Duky, :

Defendants. :

----------x

U.S. DISTRICT COURT
FILED
JAN 27 1977
S. D. OF N.Y.

INDICTMENT

S 76 Cr. 1089

(S) 76 Cr 1089

COUNT ONE

The Grand Jury charges:

1. From on or about the 30th day of April, 1973 and continuously thereafter up to and including the date of the filing of this indictment, in the Southern District of New York, SANDY CHECK and PHILIP MARASCO a/k/a Duky, the defendants and William Cali, named herein as a co-conspirator but not as a defendant, and others to the Grand Jury unknown, unlawfully, intentionally and knowingly combined, conspired, confederated and agreed together and with each other to violate Sections 812, 841(a)(1) and 841(b)(1)(A) of Title 21, United States Code.

2. It was part of said conspiracy that the said defendants and their co-conspirators unlawfully, intentionally and knowingly would distribute Schedule I and II narcotic drug controlled substances the exact amount thereof being to the Grand Jury unknown in violation of Sections 812, 841(a)(1) and 841(b)(1)(A) of Title 21, United States Code.

3. From on or about April 30, 1973 to on or about April 30, 1974 the defendant SANDY CHECK was a probationary police officer in the New York City Police Department.

4. From on or about May 1, 1974 to the present the defendant SANDY CHECK was a police officer in the New York City Police Department.

5. At all times relevant to this indictment a New York City Police Detective using the pseudonym Danny Gennaro was acting in an undercover capacity posing as an individual interested in purchasing cocaine and heroin. (This Detective will hereinafter be referred to as "Danny Gennaro.")

6. Among the means by which the defendants and their co-conspirators would and did carry out the conspiracy were the following:

a) The defendant SANDY CHECK would and did obtain cocaine and heroin which he gave to co-conspirator William Cali to sell.

b) Co-conspirator William Cali would and did sell the cocaine and heroin he had received from the defendant SANDY CHECK and would and did give money obtained from the sales to SANDY CHECK.

c) The defendant PHILIP MARASCO a/k/a Duky would and did deliver narcotics for the defendant SANDY CHECK and would and did transmit messages from co-conspirator William Cali to SANDY CHECK.

d) The defendant SANDY CHECK and co-conspirator William Cali would and did meet in the New York City Police Academy for the purpose of arranging a meeting to discuss their narcotics transactions and would and did meet nearby the Police Academy on other occasions to discuss their narcotics transactions and to exchange money and narcotics.

OVERT ACTS

7. In pursuance of the said conspiracy and to effect the objects thereof, the following overt acts among others were committed in the Southern District of New York:

a) On or about August 8, 1974, the defendant SANDY CHECK and co-conspirator William Cali had a conversation near the intersection of Broadway and Canal Street, New York, New York, concerning the sale of narcotics to Danny Gennaro.

b) On or about August 9, 1974, the defendant SANDY CHECK met Danny Gennaro in the vicinity of 209 East 5th Street, New York, New York, during which meeting Danny Gennaro paid $50 to the defendant SANDY CHECK for the purchase of a sample of heroin which the defendant SANDY CHECK was to arrange to have delivered to co-conspirator William Cali.

c) On or about August 9, 1974, the defendant PHILIP MARASCO a/k/a Duky telephoned co-conspirator William Cali and told William Cali that the heroin he had available to him was not the high quality which the defendant SANDY CHECK had promised Danny Gennaro; therefore he would not deliver the heroin to William Cali until he had obtained a high quality sample.

d) On or about August 12, 1974, the defendant PHILIP MARASCO a/k/a Duky delivered a sample of heroin to William Cali.

e) On or about August 13, 1974 in a bar and grill known as Little Peter's in New York, New York, Danny Gennaro had a conversation with the defendant SANDY CHECK in which Danny Gennaro agreed to purchase approximately one-half ounce of heroin from the defendant SANDY CHECK for which the defendant SANDY CHECK was to receive approximately $1200 and an additional $150 which co-conspirator William Cali owed to defendant SANDY CHECK from prior narcotics transaction.

f) On or about August 13, 1974, in Little Peter's the defendant SANDY CHECK received approximately $1350 from Danny Gennaro for the purchase of heroin.

g) On or about August 13, 1974, co-conspirator William Cali received from the defendant PHILIP MARASCO a/k/a Duky approximately one-half ounce of heroin.

h) On or about August 21, 1974, the defendant SANDY CHECK and Danny Gennaro had a conversation in a bar in New York, New York, concerning additional sales of narcotics, including one-eighth kilogram of heroin, from the defendant SANDY CHECK to Danny Gennaro.

(Title 21, United States Code, Section 846.)

COUNT TWO

The Grand Jury further charges:

On or about the 12th day of August, 1974, in the Southern District of New York, SANDY CHECK and PHILIP MARASCO a/k/a Duky, the defendants, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately 2 grams heroin hydrochloride.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A) and Title 18, United States Code, Section 2.)

COUNT THREE

The Grand Jury further charges:

On or about the 13th day of August, 1974, in the Southern District of New York, SANDY CHECK and PHILIP MARASCO a/k/a Duky, the defendants, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately eleven grams heroin hydrochloride.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A) and Title 18, United States Code, Section 2.)

Joseph Dillman
FOREMAN

Robert B. Fiske Jr.
ROBERT B. FISKE, JR.
United States Attorney

A-7

CHECK, SANDY

Case Filed Mo. 11 Day 30 — 76 1089 01 (Yr / Docket No. / Def.)

JUVENILE — No. of Defs. 02

U.S. CODE SECTION	OFFENSE CHARGED	ORIGINAL COUNTS
21:846	Consp. to viol. Federal Narco. Laws	1
21:812, 841(a)(1) & 841(b)(1)(A)	Distr. & possess. of Heroin, II.	2&3
21:846	Consp. to viol. Federal Narcotics L	1
21:812, 841(a)(1) & 841(b)(1)(A)	Distr. & possess. of Heroin, I.	2&3

U.S. MAG. CASE NO.

FILED — APR 21 1977 — CLERK

3/3-5

KEY DATES & INTERVALS

ARREST OR	INDICTMENT	ARRAIGNED	TRIAL
12-1-76	11-30-76	12-1-76	Trial Began: 2-2-77
		12-1-76	Jury Entered: 2-10-77
	1-27-77		

SENTENCE: 3-18-77

Disposition of Charges: 2-10-77 — X Convicted

MAGISTRATE

Search Warrant	DATE	INITIAL NO.	FINAL NO.	OUTCOME
Issued / Return				DISMISSED
Summons: Issued / Served				HELD FOR GJ OR OTHER PROCEEDING IN THIS DISTRICT
Arrest Warrant Issued				HELD FOR GJ OR OTHER PROCEEDING IN ANOTHER DISTRICT
COMPLAINT				
OFFENSE (In Complaint)				

U.S. Attorney or Asst.: Bart M. Schwartz, 791-0046

ATTORNEYS — Def'd: X Ret'd / Appt'd

Santangelo, Hahler & Harris, P.C.
125-10 Queens Blvd., Kew Gardens, N.Y. 11415

Marasco-02

DATE	PROCEEDINGS
11-30-76	Filed Indictment & Ordered sealed. B/W Ordered...Motley, J. B/W Issued.
12-1-76	Indictment Ordered unsealed. Deft. (atty. William A. Gogel present) produced in Court pursuant to Bench Warrant. Pleads not guilty. Ordered F/P. Bail fixed at $15,000 PRB bond to be co-signed by wife. 10 days for motions. Special condition surrender all weapons to F.B.I. Trial date fixed for 2-2-77 at 9:30 a.m., Room 501. Motions ret. in 10 days. Case assigned to Motley, J...Motley, J.
12-1-76	Filed warrant for arrest of deft. with marshal's return. Executed on 12-1-76.
12-1-76	Filed appearance bond in amt. of $15,000...
12-8-76	Filed remand ..Deft released on $15,000 bail 12-1-76..
12-14-76	Filed Notice of appearance of atty. for deft. Corso, Aquinick & Gogel, 32 Court St. Brooklyn, New York -624-6850 (212)

— S.C. orig —

A

A-8

USE THE APPLICABLE DOCKET ENTRIES SHOWN IN SECTION V. [illegible] OF EXCLUDABLE DELAY PER 18 U.S.C. § 3161(h)

DATE	76Cr.1089 Sandy Checkv PROCEEDINGS (continued) -PAGE TWO (DOCUMENT NO.)	V. EXCLUDABLE DELA (a)	(b)	(c)
12-20-76	Filed consent order that defts time to filed motions is extended to 12-20-76.....Motley,J..			
12-20-76	Filed consent ordor to change atty. ..Motley,J.			
1-27-77	Filed Superseding Indictment & referred to Motley,J. .....Pierce,J.			
2-1-77	Filed transcript of record of proceedings, dated 12-30-76			
2-14-77	Filed Govts memorandum of law on admissibility of tape recordings			
2-14-77	Filed defts supplemental memorandum in regard to motion to suppress			
2-14-77	Filed Govts memorandum in opposition to Marasco's motion to dismiss			
2-14-77	Filed affdvt.of Peter Sudler,Spec.Atty. in opposition to Marasco's motion to dismiss.			
****				
2-2-77	Deft waive reading of indictment and Plead not guilty. Case proceeds to TRIAL BEFORE A JURY.			
2-3-77	Trial cont'd.			
2-7-77	Trial cont'd.			
2-8-77	Trial cont'd. Deft Marasco moves for a directed verdict of Acquittal on cts. 2 & 3 Motion Granted Cts.2 & 3 are dismissed no opposition by the Govt.			
2-9-77	Trial cont'd. Deft CHECK found GUILTY on Cts.2 & 3 Jury charged as to conspiracy ct. as to both defts.			
2-10-77	Trial cont'd. JURY finds defts CHECK & MARASCO Guilty on ct. 1..P.S.I. ordered. Sent. adjd to 3-18-77 3:30 p.m. Bail cont'd. as to each deft. Check $15,000 P.R.B.....MOTLEY,J.			
3-7-77	Filed notice of motion for extension of time to file post trial motion...WITH MEMO endorsed..***The motion to extend the time is therefore denied.....So Ordered Motley,J....m/n			
3-21-77	Filed bond UNSECURED in amt.of $15,000 pending appeal..Co-signed by Samuel Shanies(Uncle)			
3-18-77	Filed Judgment(Stephen Kahler,prosecat)deft is committed for imprisonment for a period of ONE YEAR. on each of cts.,1,2 and 3 to run concurrently with each other. Pursuant to Ti.21, U.S. Code, Section 841, the deft is placed on THREE YEARS special parole to commence upon expiration of confinement.Deft released pending appeal on unsecured P.R.B. in the amount of $15,000 to be co-signed by defts uncle.....MOTLEY,J... Issued commitment and copies.....			
3-25-77	Filed notice of appeal from judgment of 3-18-77...Copy given to AUSA and mailed to deft 2820 Ocean Parkway Bklyn.N.Y.			

[illegible]

By [illegible] Deputy Clerk

A-9

United States of America vs.

United States District Court for

DEFENDANT: SANDY CHECK

THE SOUTHERN DISTRICT OF NEW YORK

DOCKET NO. 76 Cr. 1089 (CBM)

JUDGMENT AND PROBATION/COMMITMENT ORDER

COUNSEL

In the presence of the attorney for the government the defendant appeared in person on this date

MONTH	DAY	YEAR
March	18	1977

[ ] WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

[X] WITH COUNSEL STEPHEN MAHLER, ESQ.
(Name of counsel)

PLEA

[ ] GUILTY, and the court being satisfied that there is a factual basis for the plea, [ ] NOLO CONTENDERE, [X] NOT GUILTY

FINDING & JUDGMENT

There being a finding/verdict of
[ ] NOT GUILTY. Defendant is discharged
[X] GUILTY.

Defendant has been convicted as charged of the offense(s) of distributing and possessing with intent to distribute a schedule 1 narcotic drug controlled substance, Title 21, United States Code, Secs. 812, 841(a)(1) and 841(b)(1)(A) and Title 18, United States Code, Sec. 2 and conspiracy so to do, Title 21, United States Code, Sec. 846, as charged in counts 1,2 and 3.

A-10

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of ONE (1) YEAR, on each of counts 1,2 and 3 to run concurrently with each other. Pursuant to Title 21, United States Code, Section 841, the defendant is placed on THREE(3) YEARS special parole to commence upon expiration of confinement.

SPECIAL CONDITIONS OF PROBATION

Defendant released pending appeal on unsecured P.R.B./ in the amount of $15,000 to be co-signed by defendant's uncle.

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY

[X] U.S. District Judge

[ ] U.S. Magistrate

CONSTANCE BAKER MOTLEY

Constance Baker Motley

Date 3/18/77

U.S. DISTRICT COURT FILED MAR 18 1977 S.D. OF N.Y.

A-11

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

UNITED STATES OF AMERICA

-against-

SANDY CHECK,

Defendant.

----------X

NOTICE OF APPEAL CBM

76 Cr. 1089

Name and Address of Appellant: SANDY CHECK
2820 Ocean Parkway
Brooklyn, New York

Name and Address of Appellant's Attorneys:

ZUCKERBERG, SANTANGELO, MAHLER & HARRIS, P.C.
125-10 Queens Boulevard
Kew Gardens, New York 11415
Attorneys of Record

IVAN S. FISHER, ESQ.
410 Park Avenue
New York, New York
Of Counsel on Appeal

Offense:

Count One: Sections 812, 841(a)(1), 841(b)(1)(A) and 846 of Title 21, U.S.C.

Count Two: Sections 812, 841(a)(1), 841 (b)(1)(A) of Title 21, U.S.C. and Section 2 of Title 18, U.S.C.

Count Three: Sections 812, 841(a)(1) and 841 (b)(1)(A) of Title 21, U.S.C. and Section 2 of Title 18, U.S.C.

Appellant appeals from the judgment of conviction rendered against him on the 18th day of March, 1977, wherein he was sentenced to imprisonment for three (3) separate terms of one (1) year to run concurrently plus a three (3) year term of special parole to commence upon the completion of the term of incarceration.

Appellant is presently at liberty under bail.

The above named appellant hereby appeals to the United States Court of Appeals for the Second Circuit from the above stated judgment, and from each and every part and the whole thereof.

Dated: March 22, 1977

Yours, etc.

ZUCKERBERG, SANTANGELO, MAHLER & HARRIS P.C.
Attorneys for Defendant
Office & P.O. Address
125-10 Queens Boulevard
Kew Gardens, New York 11415
(212) 268-5575

TO:

HON. ROBERT B. FISKE, JR.
United States Attorney
Southern District of New York
1 St. Andrews Plaza
New York, New York

A-13

KEY IDENTIFICATION

Cali = William Cali

Check= Sandy Check
Unk.F= Unknown Female

	Ringing
Unk.F	Hello
Cali	Hello is Sandy Home ?
Unk. F	Yes, Who's this @
Cali	This is Willie
Unk. F	OK, hold on.
Cali	Alright.
Check	Hello.
Cali	Sandy ?
Check	Yeah.
Cali	It's Willie Joe
Check	Yeah
Cali	How you doing ?
Check	Alright.
Cali	How come you don't even come in the neighborhood no more nothi
Check	There ain't nothing for me down there.
Cali	No whats up?
Check	Nothing

Cali — I've been seeing Dukie around but he's full of shit too, you know everybody's full of shit I figured at least you'd give me a call you know or something like that. How you been doing otherwise?

Check — Alright.

Cali — Yeah, I figured you know they closed the bar.

Check — What happened? He didn't pay his rent?

Cali — Mikies bar. You know, the income tax.

Check — Yeah

Cali — I think it was the income tax. I think that's what Charlie tells me. You know, Charlie Russo and ah that's what he told m and ah first they closed it for one day, you know. Then he was going to re-open it you know and then I think he took his pool table out and shit like that. The neighborhood is fucking dead you know. I got a job I'm working as a security officer you know.

Check — Yeah

Cali — Yeah

Check — Where?

Cali — Fifth Avenue, I been doing good you know, keeping out of trouble. You know, I've been talking to Dukie, you know what I mean but ah things been slow, so ah you told me I could call you as long as we don't talk on the phone and just say hello, so I just figured I'd give you a ring, whatever since I haven' seen you in the neighborhood. Listen Sandy if it's possible you think we could do anything?

Check — No.

Cali — No?

Check — I don't do nothing.

Cali — No more?

Check — No more.

Cali — Alright. Well, I know, I just figured I'd call you. 'I don't talk on the phone anyway but just in case you know because Duk got my number and he called me once but nothing was doing then but ah that guy you know, we don't see him no more or nothing Dukie even knows it, you know.

Cali — I've been talking to him so if you want to think it over what know the position you're in so don't worry about it. You know, I never talk on the phone anyway, you know that, but if you com in the neighborhood, I mean. You know, say hello, I mean my Go you know Tommy's been doing good he bought a house.

Check — Who, your brother?

Cali — Yeah, he bought a house, man.

Check — What's he doing? He ain't singing no more is he?

Cali — Yeah, you kidding me?

Check — He's still singing?

Cali — Are you crazy?

Check — I don't see his name in the papers no more.

Cali — Yeah, yeah uintell. The Brooklyn paper right?

Check — Yeah.

Cali — Right the Brooklyn paper. You know where you gotta look ah you know where the middle page is?

Check — Yeah.

Cali — Alright, about three pages to your left, you know where the movies are?

Check — Yeah.

Cali Over there. He was there two weeks ago, he was ah you know th Moulon Rouge in ah Long Island.

Check Yeah.

Cali He was over there. He was at Rodney Dangerfields. He's doing good. He bought a house. He even asked for you. He comes ov the house, you know, but ah nobody's been around since the bar closed. Nobody's been around, so I talked to Duke cause you k it was only that time it was me, you and Duke that's all and t other guy. That incident we had, we don't see him no more you know. I don't believe it anyway what happened but we don't ho with him, I see Dukie we talk. You know, we do a little bit b hardly nothing you know what I mean. But ah he says he'll giv me a ring so I figured so at least I'll know as long as he's n playing games because he still owes me money from that time fr you when I gave him that thing and ah he never made good but t

Cali you told me don't give it to him no more, but ah I figured his word is good but his word ain't good man, you know like it's o me. I have the money nobody comes but he don't want to do it. He wants to do it, he wants to do it but he but he don't want to do it 'cause he's staying with that kid ah that kid from 7th Street, you know that Ukraine kid. He's never around. He always riding in the car. You know and he bullshits. He tells me he'll call me up, I give him my number which I don't give, I got married.

Check Yeah.

Cali — Yeah, I'm telling you, I'm doing good. I got my own place.

Check — Where do you live?

Cali — Yeah, maybe you know my wife, Maryann. She used to live on 4th Street. You probably know her sister, Jennifer, but I been doing good really, you know, so I know I don't talk on the phone, you told me not to but I figured you know you was always good friends, I figured we could talk you know.

Check — Where the guys hang out now ah in the what do you call it? Ukie Bar?

Cali — Yeah.

Check — Where do they hang out now in the Ukie Bar?

Cali — No, you know where they stay in a you know, Cascias?

Check — Yeah.

Cali — They stay there in the day and on 7th Street by Nat's. Why you haven't been around at all, Sandy?

Check — No.

Cali — I know, I don't see you know more nothing you know, I know you're busy and everything but ah I figured at least you'd come around once and awhile, so I figured let me at least give you a ring to see how you doing? How's your wife?

Check — Alright.

Cali — You know, you used to come around a little.

Check — What do they stay in the bar on 7th Street?

Cali — What? I didn't hear you, Sandy.

Check — Where? What bar on 7th Street?

Cali — No, I don't know if they stay in the bar. You know, where they stay sometimes ah mostly all the times, you know where Sibby's is right? The candy store.

Check — Yeah.

Cali — They'relalways there every day and like he, Dukie told me, he says ah I don't wanna talk on the phone but anyway Dukie told me, you know come and see me, Willie, you know we do business and I have the money in my pocket and everything and he don't come, you know. He make me wait because there's nobody else. It's just me, you know nobody comes and it's people he knows t you know and he's giving me the run around, Sandy. It's no go you know if he ain't going to do nothing he can't get it tell you know like ah.

Check — Well, if he's giving you the run around, take it---(telephone interruption)

Cali — What?

Check — Take it for granted.

Cali — Yeah, that's exactly what I'm doing but you see the only reaso I'm calling you too 'cause I know it was me, you and him that time so I figured I never know maybe he's still you know playing ball with you whatever but now you tell me he isn't. Your word is good for me but I just wanted to find out too because is he always like theis, Sandy?

Check — Yeah.

Cali — I mean why does he do it? He tells me, you know, that he'll call me.

Check He's fucken crazy.

Cali I should bring people around it's no good Sandy, you know because like I could get hurt this way and I don't do it no more like I used to. I'm married. I work. I just figured for the few extra dollars so now I don't fuck around no more so I figu I give you a ring, if it's possible you know it's just me.

Check No, I don't.

Cali No, I know look if you tell me no it's no I'm not gonna push you, Sandy. I know that but I'm just saying because you know,

Cali you know it's there and you know me since I'm a baby and I'll give you the bread you tell me to come back in two hours, I'm there. You could stash it anywhere but I'm just telling you, you got my number.

Check Yeah

Cali My new number?

Check Your new number?

Cali Yeah. Get a pencil.

Check What.....

Cali How's your kids?

Check My kids are good.

Cali Yeah, that's good. I don't see them in a long time. Hey, when Tommy sings, come to see him alright.

Check Yeah.

Cali Believe me, he's been asking for you because he know you know he knows you're a cop now and everything but he hasn't seen you around, you get a pencil?

Check Yeah.

Cali Yeah, I don't know if you got this one, but I'm gonna give it

Check Yeah.

Calli 7976. Now listen if it's possible Sandy, you know because wha I mean now nobody comes with me no more it's me. I hand it to you even if you say Willie, I'll see you tomorrow, you go your own way. You could put it anywhere and that's it but do me a favor but if you can and could you call me Friday and let me know, Sandy?

Check I don't. I tell you, I'm being honest with you now.

Calli Oh, OK. That's OK.

Check You know.

Calli Your words good. I just wanted

Check I don't want to lie to you. I don't do nothing.

Calli OK, but for Dukie I should just drop him in other words.

Check Well, if he's giving you the run around.

Calli He is. Sandy, I wouldn't even call you, I just thought he was

Calli playing ball with you. You know what I mean, right but ah he keeps telling me he's gonna call me. I don't give my number to nobody. He don't give his number to nobody. I don't know if he's got, I don't even want to know. He says, Willie, I'll cal you. He makes people wait in the car. You know, these people think I'm a baby, I don't this no more. I don't do it for a living, Sandy so I figured Dukie is the one tha's broke or he's saying he's broke so I figured alright he'll make some money an the situation, how it is. These guys gave me the bread. They go away, you know what I mean. They go away. There don't want to know nobody. There's only one guy and Dukie, I think knows him and all I says, it's in my pocket. I would have handed it to him and he goes away for an hour or two. It's so beautiful you know and he fucks me around so I figured maybe I can call you. Maybe if it's possible you know if you wanted to do it bu if you ever change your mind maybe call me up, this week. Alright?

Check	Alright.
Cali	Like a Friday or something. I'll expect you, alright, Sandy but
Check	Alright.
Cali	But tell your wife, I said hello, alright Sandy
Check	OK
Cali	Take care, Sandy.
Check	Take it easy.
Cali	Bye, bye. Be good.
Det. F	Time now is 1143 hours. The telephone conversation has been concluded.

Cali: Butchie (pause) Butchie (pause)

I called up Sandy last night.

Marasco: Yeah.

Cali: Yeah.

(Inaudible)

Cali: You know he don't speak too much on the phone. How come you didn't call me? I expected you to call me.

Marasco: (Inaudible) busy.

Cali: Yeah, I know you're busy and everything. I know but, uh, I gave the number. I figured at least, you know.

Marasco: I told you the other day I didn't see nobody.

Cali: Yeah, well let me, yea. I called him up. I said "how you doing?" I didn't want to get into it right away cause I haven't seen him for like eight months, and, uh, I told yeah, I spoke with Dukie but nothings up. He's says, well nothings up on his side either. Because things are bad, you know. Things are, it's really hard to get. I went to see Mike the Box, you know, Mikey.

Marasco: It ain't hot. It ain't (unintelligible) it ain't that hard to get.

Cali: Whatcha ya mean?

Marasco: It's (inaudible) hot.

Calli: They just made a big pinch on 10th Street.

Marasco Yeah, I know.

Cali: Cause I bought a sample off Cuba, you know, Cuba the S[illegible]c, right?

Cali: And, uh, everything was beautiful, ya know? Three days later I go back, Boy, be careful there's cops all around the place.

Marasco: Yeah, I know.

Cali: I thought he was kidding and he was serious, ya know? And I says well, I got to be careful.

Marasco: That's why I'm (inaudible) with anything like that.

Cali: I know. And, uh, Sandy knows the way, the way, the way it's gonna be done. Is that if the guy gives me the money, (Interruption) Anybody and that's it. The guy don't come around.

Marasco: What did Sandy say?

Cali: Sandy said its a good idea. Sandy liked it. Now Sandy's, he is supposed to call me back tomorrow. He was hesitant because, you know, it's been (glich) long and I told him listen "I spoke to Dukie, and I know what the misunderstandin with that guy, but I don't where it is and I don't believe it in the first place. But it's finished with him. I says (glich) Mike the Box knows him, and Cuba knows him, and they' good people. Gimme the money I'll put a $100.00 sample off Cuba. Know it's pretty good. Good stuff, Coke. It was very good. I think it was last week, two weeks ago. I went back and I seen nobody cause its hot down there.

Marasco: I know.

Cali: It's burning, burning, ya know. And they don't stay in the street like they used to. I told him, I says, Listen, you kn when you can get something, let me know. I keep driving back and forth once in awhile I finally see him, what the day bef yesterday. He says Willie, its fuckin hot. I says, "If I do anything I don't know how I'm gonna do it. That's what he told me.

(Uaintelligible conversation)

Marasco: What you got a car now?

Cali: No, no with the kid, ya know, and that car I seen you in that day, that's a shit car but it takes me where I want to go. It's my sister Mary's girlfriend's car. Look, what I'm saying is that for once I got a guy that don't even want to be seen, ya know, and I can't do nothing.

Marasco: Well would he be interested in the other stuff?

Cali: He's interested in, well, not really anything. I'll tell you the truth. He's choosy. He don't want to see nobody, ya know. He's afraid.

Marasco: I mean is he interested in the other thing instead of the coke

Cali: That's what we wanted from Cuba and Mike. We wanted junk (glich) but they wanted coke. They had coke. (glich) and it was good, Dukie. I hit it about two times.

Marasco: What do these guys want to do? (unintelligible)

Cali: Well, wait. They ain't rich, I could tell ya that now, ya know. They're regular guys. They ain't rich. What they would like to start off with I would guess an ounce or two. But they don't know us Dukie, ya know. And you don't know them, ya know. And you don't know them, ya know, and like they give me the money, they steal Brooklyn, or whatever they fucking wanta be and I'll give you the money and you tell me, Say Willie, I'll meet you in two hours. That's up to you, ya know, like, I'm afraid Dukie I tell ya, I still got a case to go... It's a bullshit case but I'm afraid man. You know.

Morasco: Well that's what I'm saying (Unintelligible)

Cali: I'm afraid. These cops over there, they watch me man. I'm working. I'm a security guard now, ya, know. I don't wantta jeopardize the job, ya know. Bull shit job but still I'm working, you know. I got married. I'm doing pretty good, ya know, but I'm afraid I'm not gonna do it with anybody Dukie, nobody. As I say, I talked with Sandy and he says no, Willie, I'm out of it now. I says, listen Sandy, I told him how it would be, and how it is and everyting, and I says, "Listen Sandy call me Friday, right?, and we'll talk it over. He says "Allright." I know him. If he don't call me he'll be down this weekend. He wanted to know where we stayed. I says "Sandy how long, Dukie hasn't been around in a long time. (Unintelligible) I says, yeah, I says the bar closed, I told him I says Dukie and them used to stay by

Phoebes, and they go by Coscias. He says "Oh, so I guess they'll be around this weekend, ya know. But, uh, but he says they're gonna try to help me out, but seems to be that he ain't doing too good either, you know, because.

Marasco: Give me your number.

Cali: One, I an't got a pencil. One they, they think I'm lying. The guys think I'm lying, and two I could understand, and, ya know, they wanna be there. But they don't wanta see nobody. They don't know nobody. They been waiting already there, four weeks. They think I'm full of shit. I made already two hundred off them, and I don't even do nothing, and they're thinking I'm lying, you know. I don't blame them, in a way, but Dukie I don't even bother no more with them. Believe me. I had enough chances to go with Mike the Box and Cuba for a hundred dollars (unintelligible). I don't want to do it. I'm afraid. I just went to see Mike now, his father's there, ya know, and his uncle. He ain't there. I'll try to stop back tomorrow and uh (unintelligible). Mike told me to go see Cuba. I went to see Cuba. Beautiful, I mean (unintelligible) you kno but uh, (unintelligible) maybe (unintelligible) Oh Mike, no it was a fix, you know.

Marasco: Yeah, yeah, they got them all.

Calli: They got three of the main things. Three of the main dealers (unintelligible) Felix. I know him. I don't know him, know him, but I know him.

(Unintelligible)

Marasco: You gave Cuba the money?

Cali: Yeah, I gave Cuba the money. I'll be back in an hour. No I said, I'll be right back, right? I know you ain't gonna beat me for $100.00, right? He comes back an hour and a half later, he don't even come back. He sent a kid. That's smart. You know what I mean, Duke? He didn't even implicate himself, you know what I mean? And that kid, I didn't know who the kid was. He says, "Willie Joe Cuba sent me." I said "Okay tell him I'll come back," and then three days later nothing doing, wasn't around and then, oh, they killed his brother, Mongo.

Marasco: (unintelligible)

Cali: That was his brother, Mongo, that was the week. Then he went away, he went away to Miami.

Marasco: Yeah.

(loss of radio reception)

Right.

Cali: You know, because I been calling Florida. I been doing good with them. I been keeping in touch with them, and they killed his brother. So that fucked up everything for me. Put a panic and everything, and and, and, uh, now

Marasco: Right.

Cali: Everything.

Cali: And now the whole fucking neighborhood, you gotta see all th spics. They're like this.

Marasco: (Grunt)

Cali: They're like this. They knew it. (Unintelligible) They were watching 'em like four or five months, you know. They, they knew it.

Marasco: Gimme your address, gimme your number.

Cali: Go, go see if you can get a pencil. Yeah, I don't want any more.

Marasco: Lets go pizzeria (Unintelligible)

Cali: Allright.

(Inaudible conversation)

Cali: I'll go to Petes. (Pause)

Cali: Carmine give me a pencil for a minute, please.

(Long pause in conversation)

Marasco: You know what I'll do? I'll give you a call both days, uh, Thursday.

Cali: You let me know this way I can get more money, and keep it in my house..

Marasco: Right. Okay. I'll call you by Saturday.

Cali: If anything, you know what to do.

Marasco: I'll leave word with your wife, ya know, if you hear its Tony, you know it's me. I won't give my right name.

Cali: No, No, don't give your right name.

Marasco: No.

Cali: And, uh, I'll never go by Sabinas and ask for you.

Marasco: No, no don't

Cali: I'll just wait for you.

Marasco: That's why I couldn't get in touch with you.

Cali: I know.

Marasco: That's why so many people asked me why you took the flat.

Cali: And I made a mistake that day. I realized it. I went yesterday.

Marasco: I know. They came over to me twice and told me why is Willie Joe looking for you? They put two and two together.

Cali: I know, I made a mistake by asking. But I didn't realize, its been so long. I said to myself, "I know why he's not calling me."

Marasco: Right.

Cali: (Unintelligible)

Marasco: Herbie came over to me and wanted to know why ya looking for me. These people know I was fucking around, and they, they get a hard on, they open their mouths sometimes.

Cali: I know.

Marasco: You know what I mean.

Cali: Right.

Marasco: Alright, so.

Cali Alright when you get a chance.

Marasco: So I'll give you a yes or no, one way or the other.

Cali: Yeah, but listen Dukie, you watcha could do, you can do it today?

Marasco: Yeah.

Cali: Don't go crazy, you know?

Cali: Ya know, because it ain't even in my blood no more.

Marasco: I'm only bothering with people I know. If I don't get this guy I wanna see.

Cali: Right.

Marasco: Then I won't do it.

Cali: That's what I'm saying.

Marasco: If I get this guy I wanna see.

Cali: Right.

Marasco: I'll call you.

Cali: Alright. Two or three days eh? By the weekend?

Marasco: By the weekend.

Cali: Alright. I'll see you later Dukie.

Marasco: Okay.

Cali: Take care. Hey, Duke. Just in case I ain't home, you know, my mother may be there. Just have her tell me, tell him I'll call back later, Tony.

Marasco: Yeah.

Cali: Give me time and I'll be home.

Marasco: If you know its Tony, you know it's me.

Cali: Take care. Ahh Duke. Do ya have a, do you have any idea, do you have any idea how much I ought to tell them to go for?

Marasco: No, no idea.

Cali: No idea

Marasco: The last thing they had (glich) thirteen.

Cali: What was that? H?

Marasco: Yeah Thirteen.

Cali: So we'll Uh

Marasco: Don't tell them that.

Cali: No I'm not cause I wanna, I wanna buy it up higher for you.

Marasco: You tell 'em, I'll tell you what to

Cali: I won't say noth ing. I just tell them maybe.

Marasco: Maybe (Unintelligible)

Cali: Okay.

END

A-32

CONVERSATION BETWEEN UNDERCOVER DETECTIVE STEPHEN SPINELLI (DANNY GENNARO) AND DEFENDANT CHECK
AUGUST 5, 1976

Check= Defendant Check
Det.= Undercover Detective Spinelli (Gennaro)

Det. Sandy! My name's Danny. What are you doing?

Check Floating around.

Det. Still see that fuck Willie Joe?

Check (Inaudible)

Det. I'm going down this way. What are you doing? Taking care business or what?

Check (Inaudible) huh.

Det. Last time I had any good shit was when I got it from you. And that wasn't exactly good either. That's where I'm going now. I'm heading over to pick up a package. You still doing? or what? You out of it?

Check Fuck. I work.

Det. Huh?

Check I work.

Det. You work. (cough) I tell ya. Prices have changed. Fuckin' shit's gone up. Right to the point.....

Check You're better off gettin a job before you get fuckin' locked up!

Det. Ah! Listen! The monies good, cough, cough, ya know! The only thing is the fuckin' prices are up the cock definitely (pause) (Inaudible).the name of the game. I hope my man has my fuckin' money. How come you decided to get out of the business?

Check I don't need that fuckin' business.

Det. The monies good (pause)

Det. Know anybody? Any good connections?

Check No.

Det. Huh.

Check I don't do nothing!

Det. Listen! I have to split

Check (Inaudible)

Det. I'm going down this way. Take care Sandy.

END
-2-